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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/750,013	12/29/2000	Trevor Deosaran	1722.0010003	6364
26111	7590	04/02/2004	EXAMINER	
STERNE, KESSLER, GOLDSTEIN & FOX PLLC 1100 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005			VU, KIEU D	
			ART UNIT	PAPER NUMBER
			2173	9

DATE MAILED: 04/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/750,013

Applicant(s)

DEOSARAN ET AL.

Examiner

Kieu D Vu

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Paul et al ("Paul", USP 5794011), Huang et al ("Huang", USP 6553375), and Brooks et al ("Brooks", USP 5826166).

Regarding claims 1 and 13, Paul teaches a method for increasing the performance of applications in a computer system which comprises application data that contain profile information on an application (col 4, lines 1-3), a control logic that uses the information in said application data to determine a set of modifications to said client (col 4, lines 10-13) to allow said application to more fully utilize the processing capabilities of the computer. Paul differs from the claim in that Paul does not teach the downloading application data. However, such feature is known in the art as taught by Huang. Huang teaches a system for selectively distributing applications which includes the downloading application data from network (col 5, lines 59-61). It would have been obvious to one of ordinary skill in the art, having the teaching of Paul and Huang before him at the time the invention was made, to modify the system taught by Paul to include the downloading application data taught by Huang with the motivation being to enable the system to download data. Paul and Huang do not teach the accelerating speed of the application. However, such feature is known in the art as taught by Brooks. Brooks teaches a programmable digital entertainment terminal for use in digital video program

distribution networks, Brooks' teaching comprises the increasing execution speed of the navigation software (col 13, lines 46-53). Since Paul teaches the monitoring the performance of application program, it would have been obvious to one of ordinary skill in the art, having the teaching of Paul, Huang, and Brooks before him at the time the invention was made, to modify the system taught by Paul to include the increasing execution speed of the navigation software taught by Brooks with the motivation being to enable the system to keep the performance of a particular program at a desired level (Paul, col 1, lines 34-43).

Regarding claim 2, Huang teaches that the server receiving a request (col 5, lines 59-61).

Regarding claims 3, 12, and 14, Paul teaches

- (i) modifications to said application executing on the computer system (col 4, lines 13-16)
- (ii) modifications to the operating system running on the computer system (col 5, lines 4-9).

Regarding claims 4, 8, 11, Huang teaches the computer network is at least a portion of the Internet (col 4, lines 26-33).

Regarding claim 5, Huang teaches the address of said client is an Internet Protocol (IP) address (col 28-33).

Regarding claims 6 and 15, Huang teaches making a call to a dynamically linked library (col 3, lines 38-45).

Regarding claims 7, 10, and 16, Paul teaches a method for increasing the performance of applications in a computer system which comprises an application

database that contain profile information on an application (col 4, lines 1-3), a system database that contains configuration information about the computer system (Fig. 4) a control logic that uses the information in said application data to determine a set of modifications to said client (col 4, lines 10-13) to allow said application to more fully utilize the processing capabilities of the computer. Paul differs from the claim in that Paul does not teach the downloading application data. However, such feature is known in the art as taught by Huang. Huang teaches a system for selectively distributing applications which includes the receiving selection input from the user via a graphical user interface, said selection specifying a client within the computer network and an application (col 3, lines 46-48), the downloading application data from network (col 5, lines 59-61). It would have been obvious to one of ordinary skill in the art, having the teaching of Paul and Huang before him at the time the invention was made, to modify the system taught by Paul to include the downloading application data taught by Huang with the motivation being to enable the system to download data. Paul and Huang do not teach the accelerating speed of the application. However, such feature is known in the art as taught by Brooks. Brooks teaches a programmable digital entertainment terminal for use in digital video program distribution networks, Brooks' teaching comprises the increasing execution speed of the navigation software (col 13, lines 46-53). Since Paul teaches the monitoring the performance of application program, it would have been obvious to one of ordinary skill in the art, having the teaching of Paul, Huang, and Brooks before him at the time the invention was made, to modify the system taught by Paul to include the increasing execution speed of the navigation software taught by

Brooks with the motivation being to enable the system to keep the performance of a particular program at a desired level (Paul, col 1, lines 34-43).

Regarding claim 9, Huang teaches the determined whether the user is authorized to perform the selection (access-control policy, col 3, lines 38-45).

3. Applicant's arguments filed 01/08/04 have been considered but are moot in view of the new ground(s) of rejection.

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kieu D. Vu whose telephone number is (703-605-1232). The examiner can normally be reached on Mon - Thu from 7:00AM to 3:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cabeca, can be reached on (703- 308-3116).

The fax phone numbers for the organization where this application or proceeding is assigned are as follows:

(703)-872-9306

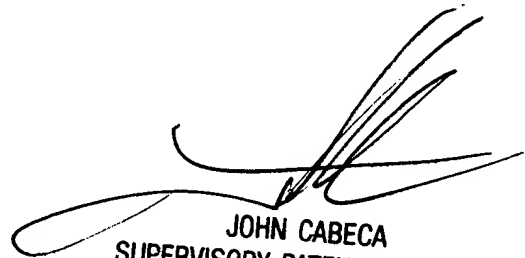
and / or:

(703)-746-5639 (use this FAX #, only after approval by Examiner, for "INFORMAL" or "DRAFT" communication. Examiners may request that a formal paper / amendment be faxed directly to them on occasions)

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-3900).

Kieu D. Vu

03/26/04



JOHN CABECA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100